RESOLUTION 2017-05

A RESOLUTION OF THE GARIBALDI CITY COUNCIL APPROVING A PERSONAL GUARANTEE BETWEEN THE CITY OF GARIBALDI AND RONALD AND JANET HALTER, AND AN AGREEMENT BETWEEN THE CITY OF GARIBALDI AND THE BANK OF THE PACIFIC FOR THE SUBORDINATION OF AN SDC AGREEMENT WITH GARIBALDI LEASING AND DEVELOPMENT

WHEREAS, the City of Garibaldi (City) has entered into an Installment Payment Agreement for Assessed Systems Development Charges (SDC Agreement) with Garibaldi Leasing and Development, Inc. (GLAD) for the amount of $188,666, attached to this resolution as **Exhibit A**; and,

WHEREAS, GLAD has requested the City subordinated this agreement to the Bank of the Pacific, by an instrument presented to the Council as **Exhibit B**, as the principal debtor for property described as 1N 10 22 BA, Lot 1300; and,

WHEREAS, GLAD has provided evidence to the City Manager that it has invested sufficient funds in the project, including the land, sufficient to have an equity upon completion of the project sufficient to provide a coverage ratio in excess of three times the principal amount of the SDC Agreement; and,

WHEREAS, Ronald L. and Janet L. Halter (the Halter's), principal members of GLAD, have offered to guarantee payment of the SDC Agreement to the City as evidenced by a Personal Guarantee Agreement attached to this resolution as **Exhibit C**, in consideration of the City's subordination to the Bank of the Pacific; and,

WHEREAS, the City Manager has reviewed the personal financial statements of the Halter's and has determined that they possess unrestricted liquid assets that provide a coverage ratio well in excess of three times the principal amount of the SDC Agreement and would be able to pay the entire balance of the current debt to the City on demand; and,

WHEREAS, the Garibaldi City Council finds that subordination of GLAD's SDC Agreement in conjunction with the Personal Guarantee Agreement between the Halter's and the City does not present a significant risk of default to the City,

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF GARIBALDI RESOLVES AS FOLLOWS:

Section 1. The Garibaldi City Council authorizes the City Manager to execute the Subordination Agreement as presented to the council in consideration for the Personal Guarantee of the Halter's as presented to the council, and attached to this resolution.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED BY THE COMMON COUNCIL AND APPROVED BY THE COUNCIL PRESIDENT, this 11th Day of April, 2017.

Eugene Tish, Council President

ATTEST:

John O'Leary, City Manager

Attached: *Exhibit A – Installment Payment Agreement for Assessed System Development Charges*
Exhibit B – Subordination Agreement – Bank of the Pacific
Exhibit C – Personal Guarantee Agreement – Halter's

CITY OF GARIBALDI

APPLICATION FOR INSTALLMENT PAYMENTS FOR SYSTEM DEVELOPMENT CHARGES

BACKGROUND

In accordance with the provisions of Garibaldi Municipal Code (GMC) 13.25.080, current Owner(s) of record must pay a System Development Charge (SDC) when new development, expansion, or an intensification of use on Owner's property occurs that is served by City infrastructure (e.g. connection of existing dwellings, construction of a new building, or expansion or change of use of an existing developed site).

CONDITIONS

A. Under ORS 223.210 and GMC 13.25.080, Owner(s) of property subject to an SDC may apply to pay the SDC in installments, to include interest at the legal rate of two percent (2%) on the unpaid balance on any term of more than 10 years.

B. If the installment payment option is chosen, the Owner(s) must enter into an agreement with the City to pay the SDCs and accrued interest in equal annual installments, plus all accrued late fees. A late fee of five dollars ($5) or five percent (5%) of the annual installment amount, whichever is greater, will be charged on any annual payment received after the due date. To set up an installment account, the Owner(s) must agree to pay the first annual installment of SDC principal and interest of at least eight thousand, four hundred, twenty-four Dollars and no cents ($8,424.00).

C. Payment may be made over a period of less than ten (10) years, only if so elected by the property owner. Otherwise, SDC charges paid on an installment basis must be paid in full by the end of thirty (30) years. The thirty (30) year period will begin on the date that the Owner(s) sign the installment agreement.

D. As provided in GMC 13.25.080 and under state law, the City will have a lien on the property for the unpaid balance of any SDC, associated interest, and any late fees[1].

E. This application incorporates by reference all terms and conditions of the City of Garibaldi Installment Payment Agreement for assessed system development charges, attached as Exhibit 1.

INSTRUCTIONS

To apply to the City to make installment payments on an SDC related to your property, complete the attached *two-page* application. The completed application and executed agreement must be received by the City prior to connecting Owner's property to City infrastructure or intensification of Owner's use of property. Keep this page (page 1 of 3) for your records. Submit pages two (2) and three (3) at City of Garibaldi, 107 Sixth Street, P.O. Box 708, Garibaldi, OR 97118.

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[1] Failure to make SDC installment payments when due may result in foreclosure of your property. Questions concerning the payment schedule should be directed to the City Manager.

CITY OF GARIBALDI

APPLICATION FOR INSTALLMENT PAYMENTS FOR SYSTEM DEVELOPMENT CHARGES

OWNERS WHO ARE INDIVIDUALS:
Owner's Printed Name:

_____

Phone #s: Home ( ) _____ Work ( ) _____ Cellular ( ) _____

Mailing Address: _____ State: _____ Zip: _____

Print Owner's Name: _____

Phone #s: Home ( ) _____ Work ( ) _____ Cellular ( ) _____

Mailing Address: _____ State: ___ Zip: _____

OWNERS WHO ARE ENTITIES OTHER THAN INDIVIDUALS:
Name of Entity: Garibaldi Leasing and Development, Inc.

Indicate Status: ✓ Corporation ____ L.L.C. ____ Ltd. Partnership ____ P.C.

_____ Other (Describe) _____

State of Incorporation or Primary Registration: Oregon

Name of Oregon Registered Agent: Paul A. Daniels
Phone Number: (503) 322-2025

Mailing Address: PO Box 736 _____ State: OR Zip: 97118

Name & Title of Authorized Signatory: Paul A. Daniels President
If space is needed to provide the required information on all the owners, please use a separate sheet of paper.

****

Property Address: 102 Arizona Way Garibaldi, OR 97118

Map and Tax Lot #: 1N 10 22 BA 1100, 1200, 1300 Southern end 490

Total SDC Amount: _____ No. of Years for payoff: 30

Was property annexed to the City within the preceding three months? _____ Yes ✓ No

Have you previously entered into an SDC installment payment agreement for this same property? _____ Yes ✓ No

Have you previously entered into an SDC installment payment agreement, with the City of Garibaldi for a different property? _____Yes ___✓___No
If yes, please provide the property address and/or map and tax lot # below:

_____

By my (our) signature(s) below we certify the following:

I (we) understand that the full amount of the SDC plus accrued interest and any late fees will be a lien on my (our) property and that submission of a completed Installment Agreement Application waives my (our) rights to contest the validity of the lien upon my (our) property, except for the correction of computational errors.

I (we) also understand that I (we), upon request, have the burden to demonstrate my (our) authority to assent to the imposition of a lien and that the property interest is adequate to secure payment of the lien.

I (we) agree to pay the recording fees and the first annual payment of principal when the installment agreement is finalized and to pay future payments on a timely basis or incur additional fees.

I (we) further understand that once the assessed SDC is paid in full, regardless of the source or timing thereof, the installment agreement related to the property identified above will be void and that I (we) will only be eligible for another installment agreement on this property if different or additional SDC fees are assessed to Property in accordance with City Code.

Signature of Owner: Paul A. Daniels President

Signature of Owner: _____

Signature of Owner: _____

Signature of Owner: _____

CITY STAFF USE ONLY

Date Completed Application Received: _____Received By: _____

Building or Land Use Permit Number: _____

Date SDC became Payable: _____
In most cases, this will be the date that the building or land use permit was or was to be issued.

Is application completed and signed by all identified owners?

If so, submit application and a copy of the related land use or building permit to the City Manager, or designee.

If not, contact applicant. Note date and time of all attempts to contact and when contact was made.

[EXHIBIT 1]

Tillamook County, Oregon
01/12/2017 03:44:50 PM
CLIEN-AL
$20.00 $11.00 - Total =$31.00

2017-000215

00164212201700002150040044

I hereby certify that the within instrument was received for record and recorded in the County of Tillamook, State of Oregon.

Tassi O'Neil, Tillamook County Clerk

After Recording, Return to:
City of Garibaldi
P.O. Box 708
Garibaldi, OR 97118

CITY OF GARIBALDI

INSTALLMENT PAYMENT AGREEMENT FOR ASSESSED SYSTEM DEVELOPMENT CHARGES

This agreement is effective on the day of the owner's signature below and sets forth the City of Garibaldi's ("City") terms and conditions under which installment payments for system development charges ("SDC") will be allowed for **Garibaldi Leasing and Development, Inc.** ("Owner") as owner of the property described below (the "Property").

1. As the current sole owner of the Property, Owner has chosen to pay all applicable SDC fees and administrative SDC program costs, totaling $188,666 in annual installments (30 payments) over a period of 30 years, subject to all of the terms and conditions set forth in this agreement.

2. Owner acknowledges that, as provided in City's Municipal Code and under state law, the amount owed under this installment agreement will be entered by City in City's lien docket and levied against the Property. Thereafter, City will have a lien on the Property for the unpaid balance of the SDC installment, associated interest, and any late fees. The lien on the Property is removable only by payment in full. Owner further understands that failure to make installment payments when due may result in foreclosure of the Property. Owner acknowledges that the SDC amounts owed, including interest, may be paid in full at any time without prepayment penalty.

3. Owner acknowledges that the right and obligation to pay SDC fees in installments shall run with the Property and shall be binding upon the heirs, executors, assigns, administrators, and successors of the parties hereto, and shall be construed as a benefit and burden upon the Property. This document shall, therefore, be recorded in the real property records of Tillamook County, Oregon, to serve as notice to any future owners or occupants of the Property of the terms and conditions of this Agreement.

4. This City lien may be assumed upon Property transfer, however, City shall not subordinate its interest in the Property. The Property owner shall only be eligible for a new installment agreement with City if different or additional SDC fees are assessed to the Property in accordance with City ordinance.

5. Owner agrees that the Property is described as Tillamook County Assessor's Map Number 1N 10 22 BA and Tax Lot 1300 more accurately described on Tillamook County Survey Record Map A-8572, and that the amount of the SDC, not including interest, is: One Hundred,

Eighty-Eight Thousand, Six Hundred and Sixty-Six Dollars and No Cents ($188,666.00). The legal description of the Property is attached as Exhibit A. The annual installment payments include interest at two percent (2%), per annum, on the unpaid SDC, on the basis of the actual number of days in each year, payable in thirty (30) equal installments of Eight Thousand, Four Hundred Twenty-Four Dollars and No Cents ($8,424).

6. Owner understands and agrees that the first installment payment, plus recording fees in an amount of $8,424.00, is due one year from the date of this agreement, on January 13, 2018, and that future payments are due on or before the first day of October, in each year thereafter until paid in full.

7. Owner further understands that if there is a subsequent failure to pay any installment, City shall have the right to enforce payment of the entire amount due in any manner provided by the laws of the State of Oregon and the City of Garibaldi Municipal Code.

8. Owner understands that a late fee of five dollars ($5) or five percent (5%) of the annual installment amount, whichever is greater, will be charged for each installment that is not paid on or before its due date. Owner also understands that any late or insufficient payment will cause the accrual of additional interest ("Excess Interest") over the scheduled amount of interest upon which the installment amounts were calculated. Therefore, in the event that late fees accrue or in the event that Excess Interest accrues, Owner agrees that each subsequent payment will be applied first to eliminate unpaid late fees, secondly to eliminate all accrued interest, and lastly to reduce the principal balance of the SDC.

9. Owner acknowledges that in the event of any proceeding to enforce collection or to foreclose, the obligation to pay the SDC shall be automatically accelerated and the entire unpaid balance including all principal, accrued interest and accrued late fees on the foregoing shall be considered immediately delinquent and due.

10. Owner hereby waives all irregularities or defects, jurisdictional or otherwise, in the proceedings to develop and impose the SDC upon the Property.

11. Owner waives all rights to contest the validity of the lien, except for the correction of computational errors.

12. Owner agrees to make all checks payable to the **City of Garibaldi** and mail or deliver to:

City of Garibaldi
107 Sixth Street
P.O. Box 708
Garibaldi, OR 97118

NOTE: This agreement requires the original signature of all owners. Each signatory to this agreement thereby SWEARS, AFFIRMS AND WARRANTS to the City of Garibaldi, under penalty of perjury, that she (he) is either the owner of the Property or is empowered by a valid legal authorization to execute this agreement on behalf of the Owner. The Signatory agrees to reimburse City for any expenses incurred as the result of a false statement as to ownership or authority, and understands that IT IS A VIOLATION OF STATE LAW TO MAKE A FALSE STATEMENT.

OWNER

Name of Entity: Garibaldi Leasing and Development, Inc

Corporate Status: Incorporated

State of Incorporation or Primary Registration: Oregon

Name of Oregon Registered Agent: Paul A. Daniels

Mailing Address: PO Box 736 Garibaldi, OR 97118

Name & Title of Authorized Signatory: Paul A. Daniels President

Signature: Paul A Daniels Date: 1.12.17

STATE OF OR)
) ss.
COUNTY OF Tillamook)

This instrument was acknowledged before me on January, 2017 by Paul A. Daniels as President of himself Garibaldi Leasing and Development, Inc, on behalf of the Garibaldi Leasing and Development, Inc

Notary Public for Oregon
My commission expires:

OFFICIAL STAMP
CHRYSTAL MARIE DEVORE
NOTARY PUBLIC-OREGON
COMMISSION NO. 951975
MY COMMISSION EXPIRES JUNE 29, 2020

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Exhibit A
Legal Description

Property is described as Tillamook County Assessor's Map Number 1N 10 22 BA and Tax Lot 1300 more accurately described on Tillamook County Survey Record Map A-8572 in Tillamook County, Oregon.

When recorded return to:

THE BANK OF THE PACIFIC
PO BOX 1826
ABERDEEN, WA 98520

SUBORDINATION AGREEMENT

Date: **March 17, 2017**
Assessor's Tax Account No(s): **Account No. 16976 Map No: IN1022BA01300**

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

The undersigned subordinator and owner agree as follows:

1. **City of Garibaldi** referred to herein as "subordinator," is the owner and holder of an Installment Agreement dated January 12, 2017 which is recorded **January 12, 2017** under auditor's file No. **2017-000215** records of **Tillamook** County, Oregon.

2. **Bank of the Pacific,** referred to herein as "lender," is the owner and holder of a Deed of Trust, in the original principal amount not to exceed **$2,205,400.00**, dated **February 3, 2017** executed by **Garibaldi Leasing and Development, Inc.** which is recorded under auditor's file No. 2017-001394, records of **Tillamook** County, Oregon.

3. **Garibaldi Leasing and Development, Inc.** referred to herein as "owner," is the owner of all the real property described in the Deed of Trust identified above in Paragraph 2.

4. In consideration of benefits to "subordinator" from "owner," receipt and sufficiency of which is hereby acknowledged, and to induce "lender" to advance funds under its Deed of Trust and all agreements in connection therewith, the "subordinator" does hereby unconditionally subordinate the lien of his Deed of Trust identified in Paragraph 1 above to the lien of "lender's" Deed of Trust, identified in Paragraph 2 above, and all advances or charges made or accruing there under, including any extension or renewal thereof.

5. "Subordinator" acknowledges that, prior to the execution hereof, he has had the opportunity to examine the terms of "lender's" Deed of Trust, note and agreements relating thereto, consents to and approves same, and recognizes that "lender" has no obligation to "subordinator" to advance any funds under its Deed of Trust or see to the application of "lender's" Deed of Trust funds, and any application or use of such funds for purposes other than those provided for in such Deed of Trust, note or agreements shall not defeat the subordination herein made in whole or in part.

6. It is understood by the parties hereto that "lender" would not have made the loan secured by the Deed of Trust in Paragraph 2 without this agreement.

7. This agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Deed of Trust in favor of "lender" above referred to and shall supersede and cancel any prior agreements as to such, or any, subordination including, but not limited to, those provisions, if any, contained in the Deed of Trust first above mentioned, which provide for the subordination of the lien or charge thereof to a Deed of Trust or Deed of Trusts to be thereafter executed.

8. The heirs, administrators, assigns and successors in interest of the "subordinator" shall be bound by this agreement. Where the word "Deed of Trust" appears herein it shall be considered as "deed of trust," and gender and number of pronouns considered to conform to undersigned.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND. IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH HIS/HER/THEIR ATTORNEYS WITH RESPECT THERETO.

Dated: _____

SUBORDINATOR:

City of Garibaldi

By: _____

STATE OF: Oregon

COUNTY OF:

I acknowledge that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person(s) acknowledged that he/she signed this instrument and acknowledged it as the _____ of **City of Garibaldi** to be the free and voluntary act of such party(ies) for the uses and purposes mentioned in this instrument..

Dated: _____ _____

Notary Public in and for the State of
Residing at
My appointment expires:

OWNER: Garibaldi Leasing and Development, Inc.

_____

Paul A. Daniels: President, Garibaldi Leasing and Development, Inc.

STATE OF: Oregon

COUNTY OF:

I acknowledge that I know or have satisfactory evidence that **Paul A. Daniels** is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it as the **President, Garibaldi Leasing and Development, Inc.**to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____ _____

Notary Public in and for the State of
Residing at
My appointment expires:

PERSONAL GUARANTEE AGREEMENT BETWEEN THE CITY OF GARIBALDI AND RONALD L. AND JANET L. HALTER FOR THE AMOUNT OF $169,799 FOR THE SUBORDINATION OF AN INSTALMENT AGREEMENT FOR SYSTEMS DEVELOPMENT CHARGES FOR GARIBALDI LEASING AND DEVELOPMENT

April ____, 2017

In order to induce the City of Garibaldi (the "City") to subordinate its priority lien for System Development Charges (SDC) payments from Garibaldi Leasing and Development, Inc. (the "Debtor"), pursuant to and in accordance with the terms and conditions of the Installment Payment Agreement for assessed System Development Charges between City and Debtor dated January 12, 2017 (the "Agreement), Ronald and Jan Halter (the "Guarantors" or the "Undersigned"), hereby unconditionally guarantee to City, its successors and assigns, the due and punctual payment when due, whether by acceleration or otherwise, in accordance with the terms thereof, of the principal of and interest on and all other sums payable, or stated to be payable, under or with respect to the Agreement in the principal amount of $188,666.00, with interest at the rate of two percent (2%) per annum. The principal and the interest thereon, and all other sums payable with respect thereto, including any late fees and excess interest, are hereinafter called "Liabilities." This unconditional guarantee shall be to the full extent as if the Undersigned were full joint and several co-obligors with Debtor on the Installment Payment Agreement for assessed System Development Charges referenced above. As security for the performance of this Guarantee, the undersigned hereby mortgages, pledges, assigns, transfers and delivers to City certain collateral (if any) listed in the schedule attached hereto. The term "collateral" as used herein shall mean any funds, guaranties, agreements or other property or rights or interests of any nature whatsoever, or the proceeds thereof, which may have been, are, or hereafter may be, mortgaged, pledged, assigned, transferred or delivered directly or indirectly by or on behalf of the Debtor, the Undersigned, or any other party to City, or which may have been, are, or hereafter may be held by any party as trustee or otherwise, as security, whether immediate or underlying, for the performance of this Guarantee or the payment of the Liabilities or any of them or any security therefore.

Guarantors represent and warrant to City that (A) no representations or agreements of any kind have been made to Guarantors which would limit or qualify in any way the terms of this Guarantee; (B) this Guarantee is executed at Debtor's request and not at the request of the City; (C) Guarantors have full power, right and authority to enter into this Guarantee; (D) the provisions of this Guarantee do not conflict with or result in a default under any agreement or other instrument binding upon Guarantors and do not result in a violation of any law, regulation, court decree or order applicable to Guarantors; (E) Guarantors have not and will not, without the prior written consent of City, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or substantially all of Guarantors' assets, or any interest therein; (F) upon City's request, Guarantors will provide to City financial and credit information in a form acceptable to City, and all such financial information which currently has been, and all future financial information which will be provided to City is and will be true and correct in all material respects and fairly present Guarantors' financial condition as of the dates the financial information is provided; (G) no material adverse change has occurred in Guarantors' financial condition since the date of the most recent financial statements provided to City and no event has occurred which may materially adversely affect Guarantors' financial condition; (H) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Guarantors is pending or threatened; (I) City has made no representation to Guarantors as to the creditworthiness of Debtor; (J) Guarantors have established adequate means of obtaining from Debtor on a continuing basis information regarding Debtor's financial condition; and (K) if Guarantors are shareholders or officers of Debtor, Guarantors have reviewed the Agreement and that the representations of Debtor contained therein are true and correct. Guarantors agree to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Guarantors' risks under this Guarantee, and Guarantors further agrees that, absent a request for information, City shall have no obligation to disclose to Guarantors any information or documents acquired by City in the course of its relationship with Debtor.

The undersigned waives any notice of the incurring by the Debtor at any time of any of the Liabilities, and waives any and all presentment, demand, protest or notice of dishonor, nonpayment, or other default with respect to any of the Liabilities and any obligation of any party at any time comprised in the collateral. The Undersigned hereby grants to City full power, in its uncontrolled discretion and without notice to the undersigned, but subject to the provisions of any agreement between the Debtor or any other party and City at the time in force, to deal in any manner with the Liabilities and the collateral, including, but without limiting the generality of the foregoing, the following powers:

(a) To modify or otherwise change any terms of all or any part of the Liabilities or the rate of interest thereon (but not to increase the principal amount of the note of the Debtor to City), to grant any extension or renewal thereof and any other indulgence with respect thereto, and to effect any release, compromise or settlement with respect thereto;

(b) To enter into any agreement of forbearance with respect to all or any part of the Liabilities, or with respect to all or any part of the collateral, and to change the terms of any such agreement;

(c) To forbear from calling for additional collateral to secure any of the Liabilities or to secure any obligation comprised in the collateral;

(d) To consent to the substitution, exchange, or release of all or any part of the collateral, whether or not the collateral, if any, received by City upon any such substitution, exchange, or release shall be of the same or of a different character or value than the collateral surrendered by City;

(e) In the event of the nonpayment when due, whether by acceleration or otherwise, of any of the Liabilities, or in the event of default in the performance of any obligation comprised in the collateral, to realize on the collateral or any part thereof, as a whole or in such parcels or subdivided interests as City may elect, at any public or private sale or sales, for cash or on credit or for future delivery, without demand, advertisement or notice of the time or place of sale or any adjournment thereof (the Undersigned hereby waiving any such demand, advertisement and notice to the extent permitted by law), or by foreclosure or otherwise, or to forbear from realizing thereon, all as City in its uncontrolled discretion may deem proper, and to purchase all or any part of the collateral for its own account at any such sale or foreclosure, such powers to be exercised only to the extent permitted by law.

The obligations of the Undersigned hereunder shall not be released, discharged or in any way affected, nor shall the Undersigned have any rights or recourse against City, by reason of any action City may take or omit to take under the foregoing powers.

In case the Debtor shall fail to pay all or any party of the Liabilities when due, whether by acceleration or otherwise, according to the terms of said note, the Undersigned, immediately upon the written demand of City, will pay to City the amount due and unpaid by the Debtor as aforesaid, in like manner as if such amount constituted the direct and primary obligation of the Undersigned. City shall not be required, prior to any such demand on, or payment by, the Undersigned, to make any demand upon or pursue or exhaust any of its rights or remedies against the Debtor or others with respect to the payment of any of the Liabilities, or to pursue or exhaust any of its rights or remedies with respect to any part of the collateral. The Undersigned shall have no right of subrogation whatsoever with respect to the Liabilities or the collateral unless and until City shall have received full payment of all the Liabilities.

The obligations of the Undersigned hereunder, and the rights of City in the collateral, shall not be released, discharged or in any way affected, nor shall the Undersigned have any rights against City; by reason of the fact that any of the collateral may be in default at the time of acceptance thereof by City or later; nor by reason of the fact that a valid lien in any of the collateral may not be conveyed to, or created in favor of, City; nor by reason of the fact that any of the collateral may be subject to equities or defenses or claims in favor of others or may be invalid or defective in any way; nor by reason of the fact that any of the Liabilities may be invalid for any reason whatsoever; nor by reason of the fact that the value of any of the collateral, or the financial condition of the Debtor or of any obligor under or guarantor of any of the collateral, may not have been correctly estimated or may have changed or may hereafter change; nor by reason of any deterioration,

waste, or loss by fire, theft, or otherwise of any of the collateral, unless such deterioration, waste, or loss be caused by the willful act or willful failure to act of City.

By executing this Guarantee, each of the Undersigned represents that it has read and understands all of the provisions of the Agreement. Each of the Undersigned acknowledges and agrees that it is a "guarantor" under the Agreement and that its cooperation with the Debtor is required to enable Debtor to comply with its covenants under the Agreement. Each of the Undersigned hereby covenants that it will execute all documents, and furnish all reports, information and other materials, including, but not limited to, its annual financial statements, annual federal tax returns and notification of the occurrence of material adverse events, as expressly required to be furnished by Guarantors under the Agreement or as indirectly required to enable Debtor to comply with its obligations thereunder.

In addition, the Undersigned agrees to furnish City, upon demand, but not more than semiannually, so long as any part of the indebtedness under such note remains unpaid, a financial statement setting forth, in reasonable detail, the assets, liabilities, and net worth of the Undersigned.

The Undersigned acknowledges and understands that if City enters into, has entered into, or will enter into, a Guarantee Agreement, with City or any other lending institution, guaranteeing a portion of Debtor's Liabilities, the Undersigned agrees that it is neither a co-guarantor with City nor shall it have any right of contribution against City.

The term "Undersigned" as used in this agreement shall mean the signer or signers of this agreement, and such signers, if more than one, shall be jointly and severally liable hereunder. The Undersigned further agrees that all liability hereunder shall continue notwithstanding the incapacity, lack of authority, death, or disability of any one or more of the Undersigned, and that any failure by City or its assigns to file or enforce a claim against the estate of any of the Undersigned shall not operate to release any other of the Undersigned from liability hereunder. The failure of any other person to sign this Guarantee shall not release or affect the liability of any signer hereof.

_____

Ronald Halter

This instrument was acknowledged before me on _____, 2017, by _____

_____

Notary Public for _____

My commission expires: _____

_____

Jan Halter

This instrument was acknowledged before me on _____, 2017, by _____

_____

Notary Public for _____

My commission expires: _____